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FILED
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JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

October Term, 1958

No. 812

JOSEPH GORSKA,

Petitioner,

against

PENNSYLVANIA RAILROAD COMPANY,

Respondent.

PETITIONER'S PETITION FOR REHEARING

The Petition for a Writ of Certiorari in the above matter was denied on May 18, 1959. The petition for rehearing is hereby filed herein pursuant to Rules of the Supreme Court Rules, and is presented in good faith and not for delay, and is restricted to the questions hereinafter more particularly set forth:

Whether by asserting jurisdiction as the petitioner did, that the challenge by respondent as follows:

> "JURISDICTION
>
> The petitioner alleges that the jurisdiction of this Court is invoked under Title 28 U. S. C. § 1257 which applies to the procedure to be followed in reviews by this Court of final state court judgments or decrees and is clearly inapplicable."

constituted the basis for the denial of the petition for a writ of certiorari? If so, petitioner prays for a rehearing pursuant to Rule 33 of the Supreme Court Rules and consideration under Rule 38 of the Supreme Court Rules, also 28 U. S. C. sec. 1254.

In view of the fact that the decision of the Court below seems to be based exclusively on the opinion of the trial Court with no apparent consideration given to the record on appeal, a very serious question as to all merchant seamen's rights is thereby affected.

The record clearly demonstrates that Gorska was permanently crippled as a result of the negligence of the shipowner.

The decision of the Court below is silent as to the basic facts upon which maritime tort liability was predicated by the petitioner.

There can be no doubt that if the decision of the Court below is the law of the land, that no seaman can ever, in fact, hope for a reversal of a decision by a trial Court, this constitutes a denial to a seaman to the right of appeal.

The fact that seamen must accept the decision of a trial Court without a review in fact based on the record on appeal is of general concern as affecting the rights of all merchant seamen.

WHEREFORE, petitioner respectfully prays for a rehearing and for such relief as to this Honorable Court may seem just and proper.

Respectfully submitted,

JACOB RASSNER,
Attorney for Petitioner.

Certificate of Counsel

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for the purpose of delay.

JACOB RASSNER.